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11 Attorneys for Defendant  
Medtronic, Inc.

12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

15 BARBARA BERRY,

16 Plaintiff,

17 vs.

18 MEDTRONIC, INC., MEDTRONIC  
19 INTERNATIONAL TECHNOLOGY, INC, and  
MEDTRONIC PUERTO RICO OPERATIONS  
CO.,

20 Defendants.  
21

Case No. 3:08-CV-2447-EMC

AMENDED STIPULATION TO STAY  
PROCEEDINGS AND RESPONSIVE  
PLEADING DEADLINE PENDING  
TRANSFER TO MDL 1905

Compl. Filed: May 13, 2008  
Trial Date: None Set

Honorable Edward M. Chen

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1 Plaintiff Barbara Berry and Defendant Medtronic Inc. by and through their counsel of record  
2 propose the following stay of responsive pleading deadlines and other proceedings pursuant to  
3 stipulation based on the following facts:

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5 This case involves allegations that defendant Medtronic, Inc.'s Sprint Fidelis Leads caused  
6 injury to Plaintiff. On February 21, 2008, the Judicial Panel on Multidistrict Litigation ("JPML")  
7 granted various plaintiffs' requests to transfer all cases allegedly arising out of the implantation of  
8 Sprint Fidelis cardiac-defibrillator leads manufactured and sold by Medtronic to a single district  
9 court for consolidated or coordinated treatment. *See In re Medtronic, Inc., Sprint Fidelis Leads*  
10 *Liability Litigation*, MDL No. 1905 ("MDL 1905"). The JPML selected the Honorable Richard H.  
11 Kyle of the District of Minnesota to preside over MDL 1905. Over 100 cases have now been  
12 transferred to the District of Minnesota in accordance with the February 21, 2008 Transfer Order. A  
13 copy of the Transfer Order is attached hereto as Exhibit A.

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15 On May 27, 2008, the Clerk of the JPML issued a Conditional Transfer Order identifying the  
16 above entitled case as a tag-along action, and conditionally assigned it to MDL 1905. A true and  
17 correct copy of the Conditional Transfer Order is attached as Exhibit B. In the interest of conserving  
18 judicial resources and avoiding potentially duplicative pretrial proceedings in this case, the parties  
19 hereby stipulate and agree to a stay of Medtronic, Inc.'s deadline to respond to the complaint and all  
20 proceedings in this action pending further orders by the MDL transferee court, the Honorable  
21 Richard H. Kyle of the District of Minnesota. This stay includes, but is not limited to, responsive  
22 pleading deadlines, any disclosures under Rule 26 of the Federal Rules of Civil Procedures, early  
23 meeting of counsel, Rule 26 report deadline, and the Scheduling Conference set by this Court for  
24 August 20, 2008.

1 IT IS SO STIPULATED.  
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3 DATED: June 4, 2008. Respectfully submitted,  
4

5 REED SMITH LLP  
6

7 By \_\_\_\_\_  
8

Sonja S. Weissman  
Dana A. Blanton  
Attorneys for Defendant  
Medtronic, Inc.

9 DATED: June 4, 2008. Respectfully submitted,  
10

11 THE BRANDI LAW FIRM  
12

13 By \_\_\_\_\_  
14

Thomas J. Branch  
Brian J. Malloy  
Attorneys for Plaintiff

15 PURSUANT TO STIPULATION, IT IS SO ORDERED.  
16

17 DATED: June       , 2008  
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19 \_\_\_\_\_ Honorable Edward M. Chen  
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21 DOC5OAK-9909774.1  
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# EXHIBIT A

UNITED STATES  
JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

Feb 21, 2008

FILED  
CLERK'S OFFICE

IN RE: MEDTRONIC, INC., SPRINT FIDELIS  
LEADS PRODUCTS LIABILITY LITIGATION

MDL No. 1905

TRANSFER ORDER

**Before the entire Panel\***: Plaintiffs in four actions have separately moved, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of this litigation. No party opposes centralization. The parties variously urge the selection of the following districts to serve as the transferee forum: the Northern District of California, the Southern District of Florida, the District of Kansas, the District of Minnesota, the Western District of Missouri, the Eastern District of New York, the Northern District of Ohio, or the Southern District of West Virginia.

This litigation currently consists of 27 actions listed on Schedule A and pending in eight districts as follows: eight actions in the District of Puerto Rico, five actions each in the Southern District of Florida and the District of Minnesota, three actions in the Western District of Louisiana, two actions each in the Northern District of California and the Eastern District of Louisiana, and one action each in the District of Kansas and the Western District of Missouri.<sup>1</sup>

On the basis of the papers filed and hearing session held, we find that these 27 actions involve common questions of fact, and that centralization under Section 1407 in the District of Minnesota will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. All actions share factual questions concerning similar allegations relating to injuries arising from the implantation of Sprint Fidelis leads, which are small wires attached at one end to an implantable cardiac device and at the other end directly to heart tissue that allow the device to monitor and, when necessary, deliver the shocks necessary to correct various heart arrhythmias. Defendant Medtronic, Inc. (Medtronic) recalled all non-implanted Sprint Fidelis leads in October 2007. Centralization under Section 1407 will eliminate duplicative discovery; prevent inconsistent pretrial rulings, including those with respect to certification of class actions; and

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\* Judge Heyburn did not participate in the disposition of this matter.

<sup>1</sup> In addition to the 27 actions now before the Panel, the parties have notified the Panel of 60 related actions pending in various districts across the country. These actions and any other related actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

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conserve the resources of the parties, their counsel and the judiciary.

We are persuaded that the District of Minnesota is an appropriate transferee forum for this litigation. Because Medtronic has its headquarters within the District of Minnesota, relevant discovery may be found there. Transfer to this district also provides a centrally located forum for actions filed in several locations nationwide.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the District of Minnesota are transferred to the District of Minnesota and, with the consent of that court, assigned to the Honorable Richard H. Kyle for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



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D. Lowell Jensen  
Acting Chairman

John G. Heyburn II, Chairman\*  
Robert L. Miller, Jr.  
David R. Hansen

J. Frederick Motz  
Kathryn H. Vratil  
Anthony J. Scirica

**IN RE: MEDTRONIC, INC., SPRINT FIDELIS  
LEADS PRODUCTS LIABILITY LITIGATION**

MDL No. 1905

**SCHEDULE A**

Northern District of California

Jeneane Baque v. Medtronic, Inc., C.A. No. 3:07-5352  
Willie West, et al. v. Medtronic, Inc., et al., C.A. No. 3:07-5697

Southern District of Florida

John North v. Medtronic, Inc., et al., C.A. No. 1:07-22764  
Eugene Clasby v. Medtronic, Inc., et al., C.A. No. 1:07-22768  
Mary M. Wardwell, etc. v. Medtronic, Inc., et al., C.A. No. 9:07-81034  
Doug Venning v. Medtronic, Inc., et al., C.A. No. 9:07-81056  
Leroy Coffee v. Medtronic, Inc., et al., C.A. No. 9:07-81094

District of Kansas

Phillip S. Brown v. Medtronic, Inc., et al., C.A. No. 2:07-2542

Eastern District of Louisiana

Keith Paul Trosclair v. Medtronic, Inc., et al., C.A. No. 2:07-7565  
Henry J. Theriot, et al. v. Medtronic, Inc., et al., C.A. No. 2:07-8441

Western District of Louisiana

Randall Stone v. Medtronic, Inc., et al., C.A. No. 3:07-1902  
Mattie Ley Johnson Londo v. Medtronic, Inc., et al., C.A. No. 6:07-1809  
Dianna Sonnier v. Medtronic, Inc., et al., C.A. No. 6:07-1889

District of Minnesota

Kelly Luisi, et al. v. Medtronic, Inc., et al., C.A. No. 0:07-4250  
Harvey Lee Conway, Jr., et al. v. Medtronic, Inc., et al., C.A. No. 0:07-4270  
Linda J. White v. Medtronic, Inc., et al., C.A. No. 0:07-4412  
Rodney C. Kesti v. Medtronic, Inc., et al., C.A. No. 0:07-4442  
Jesse Noonan v. Medtronic, Inc., et al., C.A. No. 0:07-4528

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**MDL No. 1905 Schedule A (Continued)**

Western District of Missouri

Kenneth R. Carlile v. Medtronic, Inc., et al., C.A. No. 5:07-6110

District of Puerto Rico

Russell Nelson, et al. v. Medtronic, Inc., et al., C.A. No. 3:07-1969

David Wood v. Medtronic, Inc., et al., C.A. No. 3:07-1971

Frederick Santitoro, et al. v. Medtronic, Inc., et al., C.A. No. 3:07-1972

Norman Black v. Medtronic, Inc., et al., C.A. No. 3:07-2014

Gilberto Colon-Perez, et al. v. Medtronic, Inc., et al., C.A. No. 3:07-2021

William E. Storms v. Medtronic, Inc., et al., C.A. No. 3:07-2049

Gerald Phaup, Jr. v. Medtronic, Inc., et al., C.A. No. 3:07-2050

Carlos Milan, et al. v. Medtronic, Inc., et al., C.A. No. 3:07-2064

## EXHIBIT B

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

**CHAIRMAN:**  
Judge John G. Heyburn II  
United States District Court  
Western District of Kentucky

**MEMBERS:**  
Judge D. Lowell Jensen  
United States District Court  
Northern District of California

Judge J. Frederick Motz  
United States District Court  
District of Maryland

Judge Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana

Judge Kathryn H. Vratil  
United States District Court  
District of Kansas

Judge David R. Hansen  
United States Court of Appeals  
Eighth Circuit

Judge Anthony J. Scirica  
United States Court of Appeals  
Third Circuit

**DIRECT REPLY TO:**

Jeffery N. Lüthi  
Clerk of the Panel  
One Columbus Circle, NE  
Thurgood Marshall Federal  
Judiciary Building  
Room G-255, North Lobby  
Washington, D.C. 20002

Telephone: (202) 502-2800  
Fax: (202) 502-2888  
<http://www.jpml.uscourts.gov>

May 27, 2008

TO INVOLVED COUNSEL

Re: MDL No. 1905 -- IN RE: Medtronic, Inc., Sprint Fidelis Leads Products Liability Litigation

(See Attached CTO-10)

Dear Counsel:

Attached hereto is a copy of a conditional transfer order filed today by the Panel involving the above-captioned matter. This matter is transferred pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001). Copies of Rule 5.2, dealing with service, and Rules 7.4 and 7.5, regarding "tag-along" actions, are attached for your convenience.

Inasmuch as there is an unavoidable time lag between notification of the pendency of the tag-along action and the filing of a conditional transfer order, counsel are required by Rule 7.4(b) to notify this office **BY FACSIMILE**, at (202) 502-2888, of any official changes in the status of the tag-along action. These changes could involve dismissal of the action, remand to state court, transfer to another federal court, etc., as indicated by an order filed by the district court. Your cooperation would be appreciated.

**NOTICE OF OPPOSITION DUE ON OR BEFORE: June 11, 2008 (12 noon EST)**  
(Facsimile transmission is suggested.)

If you are considering opposing this conditional transfer order, please review Rules 7.4 and 7.5 of the Panel Rules before filing your Notice of Opposition.

A list of involved counsel is attached.

Very truly,

Jeffery N. Lüthi  
Clerk of the Panel

By Deputy Clerk  
Deputy Clerk

Attachments

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

MAY 27 2008

FILED  
CLERK'S OFFICE

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

IN RE: MEDTRONIC, INC., SPRINT FIDELIS  
LEADS PRODUCTS LIABILITY LITIGATION

MDL No. 1905

(SEE ATTACHED SCHEDULE)

**CONDITIONAL TRANSFER ORDER (CTO-10)**

On February 21, 2008, the Panel transferred 22 civil actions to the United States District Court for the District of Minnesota for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 536 F.Supp.2d 1375 (J.P.M.L. 2008). Since that time, 91 additional actions have been transferred to the District of Minnesota. With the consent of that court, all such actions have been assigned to the Honorable Richard H. Kyle.

It appears that the actions on this conditional transfer order involve questions of fact that are common to the actions previously transferred to the District of Minnesota and assigned to Judge Kyle.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the District of Minnesota for the reasons stated in the order of February 21, 2008, and, with the consent of that court, assigned to the Honorable Richard H. Kyle.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the District of Minnesota. The transmittal of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:



Jeffery N. Lüthi  
Clerk of the Panel

**IN RE: MEDTRONIC, INC., SPRINT FIDELIS  
LEADS PRODUCTS LIABILITY LITIGATION**

MDL No. 1905

**SCHEDULE CTO-10 - TAG-ALONG ACTIONS**

<b><u>DIST. DIV. C.A. #</u></b>	<b><u>CASE CAPTION</u></b>
CALIFORNIA NORTHERN CAN 3 08-2447	Barbara Berry v. Medtronic Inc., et al.
LOUISIANA EASTERN LAE 2 08-3223	Goodwin Metzler v. Medtronic, Inc., et al.
OHIO SOUTHERN OHS 1 08-322	Irene McCarty, etc. v. Medtronic, Inc., et al.
TEXAS EASTERN TXE 2 08-209	J.P. Stanley v. Medtronic, Inc., et al.
VIRGINIA EASTERN VAE 1 08-477	Martin H. Kloeden, et al. v. Medtronic, Inc., et al.